

HONOURABLE SRI JUSTICE R.SUBHASH REDDY

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WRIT PETITION No.1507 of 2005

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DATED 21ST SEPTEMBER, 2007

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BETWEEN

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Mulka Srinivasa Reddy,

.....Petitioner

and

District Registrar and Authorized Officer,
Nalgonda, Nalgonda district.

...Respondent.

HONOURABLE SRI JUSTICE R.SUBHASH REDDY

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WRIT PETITION No.1488 of 2005

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ORDER:

This Writ Petition is filed questioning the notice in Memo No.100/637/2003/DR/Post Facto, dated 22-9-2004 issued by the respondent for launching prosecution against the petitioner.

The petitioner is the purchaser of plots bearing Nos. 41, 42, 50, 51, 59 and 60, admeasuring 5,400 square yards, covered by Sy.No. 544, situate in the municipal limits of Miryalaguda. She purchased the said plots by showing the consideration of Rs.8,10,000/- from its earlier owner and paid the stamp duty based on the said valuation. But, however, subsequently, on inspection made, it was found that market value of the said property was not shown correctly for the purpose of stamp duty. On the ground that the petitioner suppressed the facts relating to true market value, and, failed to pay the deficit stamp duty, notice for launching prosecution is issued for violation of provisions under Sections 27,64,64-A of the Indian Stamp Act,1899 and Section

82 of the Registration Act, 1908.

This Writ Petition is filed mainly on the ground that no prior notice was issued before initiating the proceedings for payment of deficit stamp duty and in view of the same, it is not open for the respondents to issue impugned memo.

In the counter affidavit filed on behalf of the respondent, it is stated that separate proceedings were initiated for determination of the deficit stamp duty payable by the petitioner and penalty thereof.

As per Section 27 of the Indian Stamp Act, 1899, the parties to the document shall show fully and truly the consideration if any, the market value of the property, and, all other facts and circumstances affecting the chargeability of the instrument with duty or the amount of the duty with which it is chargeable. Penalty for omission to comply with the provisions of Section 27 of the Indian Stamp Act, 1899 is contemplated under Section 64 of the Act. In the instant case, Impugned proceedings issued to the petitioner is only a notice for launching prosecution on the ground of suppression of facts in the document and failure to pay proper stamp duty which amounts to violation of provisions under Sections 27,64,64-A of the Indian Stamp Act,1899 and Section 82 of the Registration Act, 1908, and the same cannot be construed as launching prosecution straight away. Therefore, I do not find any illegality warranting interference with the impugned notice in this petition filed under Article 226 of the Constitution of India.

The Writ Petition is devoid of merits and is accordingly dismissed. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATED: 21-9-2007.
Msnr.

